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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/523,359

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Ole Jan Myhre

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Ballard Spahr Andrews & Ingersoll, LLP

SUITE 1000

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ATLANTA, GA 30309-3915

EXAMINER

PATTERSON, MARC A

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

08/20/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/523,359

**Applicant(s)**

MYHRE ET AL.

**Examiner**

MARC A. PATTERSON

**Art Unit**

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6, 8-13, 15-17 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8-13, 15-17 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

**WITHDRAWN REJECTIONS**

1. The 35 U.S.C. 102(b) rejection of Claims 1 – 4, 6, 8 – 9, 11 – 12, 15 – 17 and 20 as being anticipated by Mawson et al. (U.S. Patent No. 6,605,675 B2), of record on page 2 of the previous Action, is withdrawn.

**NEW REJECTIONS**

***Claim Rejections – 35 USC § 103(a)***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 4, 6, 8 – 13, 15 – 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skar et al (U.S. Patent No. 6,632,884 B1) in view of Mawson et al. (U.S. Patent No. 6,605,675 B2).

With regard to Claims 1 - 4 and 8, Skar et al disclose a film (column 11, line 57) that is an ethylene - olefin copolymer mixture (column 8, lines 1 – 7) having a density of 915 to 940 kg/m<sup>3</sup> wherein the mixture is bimodal and comprises a lower molecular weight component and a higher molecular weight component and wherein the lower molecular weight component has a melt flow rate of at least 100 g/10 min and a density of from 945 kg/m<sup>3</sup> to 960 kg/m<sup>3</sup> (column 11, lines 50 - 63) and weight average molecular weight of at least 100000 D (column 6, lines 54 – 56); the catalyst used in making the copolymer is a Ziegler - Natta catalyst (column 12, lines

30 – 31); the polymer is made in a series of reactors, including a slurry loop reactor and gas phase reactor (column 6, lines 23 – 31); However, with regard to the claimed aspect of the making of the polymer in a series of reactors, the limitations are directed to process limitations and are therefore given little patentable weight. Skar et al fail to disclose a molecular weight distribution of 10 to 35 and comonomer in the amount of 2 to 10 mole % and a film that is a shrink film.

Mawson et al teach a polyethylene film having 2 to 10 mole % of a comonomer (column 40, lines 62 - 67; column 41, lines 1 - 2) and a molecular weight distribution of 10 to 35, that is a shrink film (column 45, line 57) for the purpose of making a film for food contact applications (column 45, line 61). One of ordinary skill in the art would therefore have recognized the advantage of providing for the comonomer amount, molecular weight distribution and shrinkability of Mawson et al in Skar et al, which comprises a film, depending on the desired use of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a molecular weight distribution of 10 to 35 and comonomer in the amount of 2 to 10 mole % and a film that is a shrink film in Skar et al in order to obtain a film for food contact applications as taught by Mawson et al.

With regard to Claim 6, the comonomer taught by Mawson is butene (column 41, lines 3 - 11).

With regard to Claims 9, 17 and 20, because Skar et al and Mawson et al disclose a shrink film having the claimed composition, the claimed value of dart drop is possessed by the film.

With regard to Claims 11 - 12, the film taught by Mawson et al is multilayer, therefore unilamellar (column 45, lines 66 - 67).

With regard to Claims 15 - 16, because Mawson et al disclose a shrink film, Mawson et al disclose a process for wrapping an object comprising applying the film about the object and heating the film.

With regard to Claims 10 and 13, Mawson et al fail to disclose a shrink film having a thickness of 100 to 200 ktm. However, Mawson et al disclose a multilayer film, as discussed above. It would therefore be obvious for one of ordinary skill in the art to determine, through routine optimization, the number of layers, therefore the thickness, depending on the desired use of the end product.

#### ANSWERS TO APPLICANT'S ARGUMENTS

4. Applicant's arguments regarding the 35 U.S.C. 102(b) rejection of Claims 1 - 4, 6, 8 - 9, 11 - 12, 15 - 17 and 20 as being anticipated by Mawson et al. (U.S. Patent No. 6,605,675 B2), of record on page 2 of the previous Action, have been considered and have been found to be persuasive. The rejections of the previous Action are therefore withdrawn. The new rejection above is directed to amended Claims 1 - 4, 6, 8 - 13, 15 - 17 and 20.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Marc A Patterson/  
Primary Examiner, Art Unit 1794